



CONSTITUENT ASSEMBLY OF PAKISTAN DEBATES

Thursday, the 28th September, 1950

OFFICIAL REPORT

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Printed and published by the Manager,
Governor-General's Press and Publications, Pakistan, Karachi : 1950

Price : 6 Annas.

THE CONSTITUENT ASSEMBLY OF PAKISTAN DEBATES

(Official Report of the Eighth Session of the Constituent
Assembly of Pakistan Debates)

Volume VIII—1950

CONSTITUENT ASSEMBLY OF PAKISTAN

Thursday, the 28th September, 1950

THE Constituent Assembly of Pakistan met in the Assembly Chamber, Karachi, at Eleven of the Clock, being the First Day of the Eighth Session of the Constituent Assembly of Pakistan, Mr. President (The Honourable Mr. Tamizuddin Khan) in the Chair.

The proceedings of the Constituent Assembly of Pakistan commenced with a recitation from the Holy Quran by Maulana Abdullah-el Baqui.

ANNOUNCEMENT *RE* ELECTION OF MEMBERS TO THE C. A. P. FINANCE COMMITTEE

Mr. President : I have to make an announcement.

I have to inform the Honourable Members that in pursuance of Rule 64 of the Constituent Assembly Rules, the Finance Committee of the Constituent Assembly has to be set up for the current financial year, *viz.* 1950-51. I have, therefore, to inform the House that nominations for the purpose of election to the said Committee will be received in the Notice Office up to 4 P.M. on Monday, the 2nd October, 1950, and that the election, if necessary, will be held on Tuesday, the 3rd October, 1950, in Joint Secretary's room in the Assembly Building between the hours of 10.30 A.M. and 1 P.M..

Under rule 87 of the said Rules election will be conducted on the basis of proportional representation by means of the single transferable vote.

THE PAKISTAN (PROVISIONAL CONSTITUTION) ORDER (AMENDMENT) BILL.

Mr. President : Honourable Mr. Jogendra Nath Mandal.

(The Honourable Mr. J. N. Mandal was not present.)

The Honourable Pirzada Abdus Sattar Abdur Rahman (Sind : Muslim) : Sir, I beg leave to introduce a Bill to amend the Pakistan (Provisional Constitution) Order, 1947.

Mr. President : Pirzada, I understand that you have yourself given notice of a similar Bill.

The Honourable Pirzada Abdus Sattar Abdur Rahman : Yes, Sir. I thought the correction must have been made.

Mr. President : Has Mr. Mandal authorised you to introduce it ? Can it be done under the Constituent Assembly Rules ?

The Honourable Pirzada Abdus Sattar Abdur Rahman : Sir, I have myself given notice to this effect.

Mr. President : So far as your notice is concerned, it is not yet ripe for being taken up.

The Honourable Pirzada Abdus Sattar Abdur Rahman : All right, Sir.

THE GOVERNMENT OF INDIA (AMENDMENT) BILL

The Honourable Mr. Liaquat Ali Khan (East Bengal : Muslim) : Sir, I beg to move for leave to introduce a Bill further to amend the Government of India Act, 1935 (insertion of new section 123).

Mr. President : The question is :

"That leave be granted to introduce a Bill further to amend the Government of India Act, 1935 (insertion of new section 123)."

The motion was adopted.

The Honourable Mr. Liaquat Ali Khan : I introduce the Bill.

INTERIM REPORTS OF THE BASIC PRINCIPLES COMMITTEE AND THE COMMITTEE ON FUNDAMENTAL RIGHTS

The Honourable Mr. Liaquat Ali Khan (East Bengal : Muslim) : Sir, I beg to present the Interim Report* of the Basic Principles Committee regarding Federal and Provincial Constitutions and Distributions of Powers.

Mr. President : Next one, the Honourable Mr. Liaquat Ali Khan.

The Honourable Mr. Liaquat Ali Khan : Sir, I beg to present the Interim Report† of the Committee on Fundamental Rights and on matters relating to Minorities.

Shri Dharendra Nath Dutta (East Bengal : General) : Sir, we have not got the copies.

The Honourable Mr. Liaquat Ali Khan : Copies will now be given. I am just presenting them to you.

(After a pause.)

The Honourable Mr. Liaquat Ali Khan : Sir, with your permission, I would like this to be postponed till some later date. I have been approached by a number of Members who have told me that they have not had the time sufficiently to consider this Report and some of them have not actually received their copies. Therefore, I would like, with your permission, to move my motion later at some appropriate time.

Mr. President : I think there is no objection to that.

(Voices : No.)

The consideration of the Interim Report was, therefore, postponed.

* Printed as Appendix I, see pages 13—50 *infra*.—*Ed. of Deb.*

† Printed as Appendix II, see pages 51—57 *infra*.—*Ed. of Deb.*

AMENDMENT *RE* TABLING OF AMENDMENTS TO THE TWO INTERIM REPORTS.

Mr. President : In this connection I would like to point out another thing. Some Members have asked for time for tabling amendments to the provisions of the Report. I think as the motion is not going to be taken up today, the time may be extended. Will it do if the time is extended up to Saturday next ?

An Honourable Member : Till Monday.

Mr. President : Then Honourable Members give notices of their amendments by Monday next, up to 4 P.M. on 2nd October, 1950. But I would request the Honourable Members to send their notices earlier, if possible, by instalments, because if all of them send notices by Monday next then it may be difficult to tabulate them in time for being placed before the Assembly when it meets next to consider the motion.

Shri Dhirendra Nath Dutta (East Bengal : General) : Sir, I would like to know in regard to which Report the amendments have to be moved. Do you mean in respect of both the Reports ?

Mr. President : I was referring to the Basic Principles Committee's Report, but I think you have raised a relevant question. I think notices should be given of amendments in regard to both the Reports by 2nd October.

Shri Dhirendra Nath Dutta : With regard to the second Report, we shall require further time.

Mr. President : It is a very short Report. Members will not find it very difficult to go through the Report within a short time and I think it would be possible for Members to give their notices by Monday next.

Mr. M. H. Gazder (Sind : Muslim) : But when shall we get the Reports ? We want them because we have to table our amendments.

Mr. President : You are getting the Reports just now.

The Honourable Mr. Liaquat Ali Khan (East Bengal : Muslim) : You are getting them.

Mr. President : Then the amendments to the proposed motion of Mr. Liaquat Ali Khan cannot be taken up today.

RESOLUTION *RE* VENUE OF THE SITTINGS OF CONSTITUTIONAL COMMITTEES

Mr. President : Prof. Raj Kumar Chakraverty.

Prof. Raj Kumar Chakraverty (East Bengal : General) : Sir, . . .

The Honourable Mr. Liaquat Ali Khan (East Bengal : Muslim) : He does not want to move.

Prof. Raj Kumar Chakraverty : Sir, I beg to move :

"Resolved that in view of the need of economy in the State expenditure, the sittings of the Committees and Sub-Committees connected with the making of the Constitution should not be ordinarily held at places other than Karachi."

Sir, the resolution is itself self-explanatory and I do not think that I should inflict a long speech on this subject. Recently there were two meetings of two Sub-Committees—one on the Basic Principles Sub-Committee on the Distribution of Powers and the Federal and Provincial

[Prof. Raj Kumar Chakraverty]

Constitutions, and another on Judiciary. One of the meetings was held at Nathiagali—a hill station in the North-West Frontier Province—and another meeting was held at Murree—a hill station in Kashmir . . .

Mr. Serajul Islam (East Bengal : Muslim) : Punjab.

Prof. Raj Kumar Chakraverty : I stand corrected—in the Punjab. Sir, my motion arises out of these meetings and it is for our future guidance. I might make it clear at the very outset that it is not a censure motion against the Government in any way because the Government is not responsible for it. I say the Government is not responsible for it in any way. It is the Members themselves who fix the venue and they had the meetings there. What I say in all humility is that it is a heart-searching motion. Let us search our hearts ; let us pause and consider if it was proper on our part to have a trip to Nathiagali or Murree and back at the cost of the tax-payer. It is time for us to consider whether we are justified in spending these few thousand rupees—not one thousand—it must have cost more than five thousand rupees—as the cost for the travelling allowance for the members of the Committees and members of the staff, that had to accompany the members of these two Committees to two different distant places. Sir, apart from the time that this long journey took in coming and going—and the time of the Honourable Members is very precious—the question of money has to be considered when we all feel the need for economy in our present circumstances. In olden days, Sir, it was an annual affair with us to attack the British bureaucracy when they had their annual hill exodus to Simla, Darjeeling or Ootacamund. We claimed that very good work could be done in plains instead of the people going to Simla, Darjeeling or Ootacamund. Sir, whatever may be said about the climate of Calcutta, Delhi or Madras during the summer, it must be admitted that the climate of Karachi is simply excellent and is very temperate and there should be no difficulty for anybody to work hard in this salubrious climate of Karachi, specially when we remember that hundreds of workers and employees in the Secretariat and outside are working hard in this city. There is no reason why the Members of this House should be unwilling to work here along with them and share their joys and sorrows—whatever they may be—in the performance of their duties. Sir, it may be said that the members could perform their work undisturbed in the good climate of Nathiagali or Murree. To that my reply is that the largest volume of work with regard to the making of the constitution was done at the last meeting held at Karachi in September when the full Basic Principles Committee met here. So, the argument that Members can go on with their work undisturbed at a secluded or lonely place like Nathiagali or Murree alone, has no legs to stand on.

Sir, the Members of these Committees are certainly grateful to the local authorities of those places and to our local brothers for the splendid and lavish hospitality that they showered upon the members of the Assembly on those occasions. My leader, Mr. Sris Chandra Chattopadhyaya, I am glad, improved much in health during his ten days stay in Nathiagali—though he hardly required any more improvement ! My friend, Mr. Prem Hari Barma, I am told, gained some flesh, though he does not require any further flesh on his body. All these considerations apart, Sir, we have to consider and pause whether it is proper for

us to spend the tax-prayer's money for luxury trips like these. Sir, we are liable to criticism and that too on very good grounds. The public might say that the members are having very luxurious trips up to Nathiagali and Murree without any substantial progress in the making of the Constitution; they are having their trips at the cost of the taxpayers. I want to spare the Members from that criticism and I want to spare the State from this unnecessary expenditure of money. Sir, in all humility, I submit this motion for the acceptance of the House.

Mr. President : Motion moved :

"Resolved that in view of the need of economy in the State expenditure, the sittings of the Committees and Sub-Committees connected with the making of the Constitution should not be ordinarily held at places other than Karachi."

Mr. M. H. Gazder (Sind : Muslim) : Sir, I rise to oppose this motion because, I think, this motion is not necessary. Sir, if you read the words of the resolution: "... the sittings of the Committees and Sub-Committees connected with the making of the Constitution should not be *ordinarily* held at places other than Karachi"—he has used the word "*ordinarily*". That means that in exceptional cases they could be held even outside Karachi. Sir, the Constituent Assembly Rules provide—Rule 14: "(1) The business of the Assembly means the business conducted: (a) in the Assembly; and (b) in its Committees. (2) The business of the Assembly shall be conducted at Karachi unless the President otherwise directs...." So, Sir, it is only in very extraordinary circumstances—unless the President otherwise directs. Rules already provide that all meetings will be held here ordinarily. As regards expenditure, I am sure if our Honourable friend had sent for comparative figures for holding meetings at Karachi and Murree or Nathiagali, he would have found that in the latter case the cost is less....

Prof. Raj Kumar Chakraverty : Rs. 500 at least per head....

Mr. M. H. Gazder : Our Bengali friends, when they come from East Bengal, go to Murree or Nathiagali *via* Delhi and this costs less than when they come to Karachi. If the meetings are held in Karachi, it takes a longer time to take decisions because the Honourable Ministers and Members come with a lot of other private work....

Prof. Raj Kumar Chakraverty : Are you prepared to go to Dacca?

Mr. M. H. Gazder : We will go to Dacca when a meeting is held there.

Prof. Raj Kumar Chakraverty : That is not a hill station!

Mr. M. H. Gazder : Sir, there is no necessity for this resolution because it is absolutely redundant. Whatever the mover of the resolution desires has already been provided under the Rules. As regards his criticism of expenditure, all that would have been justified if he could have shown by facts and figures that holding the meetings there has cost us more.

Shri Sris Chandra Chattopadhyaya (East Bengal : General) : Sir, I oppose the resolution....

Mr. Serajul Islam : Thank you.

Shri Sris Chandra Chattopadhyaya : In my opinion, not only this Sub-Committee, but even this Assembly ought to sit in each Province occasionally by rotation. That will give the people of those places some idea how the Assembly is going to work and they will come into contact with the Assembly Members who will, in turn, learn many things. That is my idea. You know and my friend, Prof. Raj Kumar, also knows that we used to hold our Congress meetings in every Province and districts. Why? The Congress held its sittings—annual

[Shri Sris Chandra Chattopadhyaya]

sittings—in every province each year in order that the members may come in contact with the local people. They held their meetings in Allahabad or in Delhi and our Provincial Committee also sometimes used to be held in some other district even. The Provincial Congress Committee used to hold its meetings outside its own Provincial town. Similarly, I know, I attended many Muslim League meetings. The meetings of the Muslim League were held in other Provinces also.

As far as the question of expense is concerned, I would say that the State is for expense. There must be some money spent in order to improve.

An Honourable Member : To improve the health of the members !

Shri Sris Chandra Chattopadhyaya : Not of the Members. I have not increased in weight. I was 160 lb. when I went there and I was 160 lb. in weight when I left Nathiagali.

We proposed that the sittings of this Assembly would also be held at Dacca which is not a health resort. The Leader of the House pointed out, there would be some difficulties to arrange sittings of the Assembly there with the huge staff and papers. Therefore, it is not possible, to do so. Recently there was held Educational Conference in Peshawar and Dacca. So, I say it is necessary for the education of the local people and to create enthusiasm to hold our meetings in different places, if possible.

Moulavi Ebrahim Khan (East Bengal : Muslim) : Sir, I rise to oppose this motion for another reason. My honourable friend, Mr. Chakraverty, has given a glowing picture of the various luxuries that were showered upon the Members in the health resorts. This has proved to be positively tantalising to me. So I want to keep the door open so that—in however distant future—I may also get an opportunity for getting into these luxuries. Hence, I oppose the motion of Prof. Raj Kumar Chakraverty.

The Honourable Pirzada Abdus Sattar Abdur Rahman (Sind : Muslim) : Sir, In all fairness to the Judiciary Committee which held its meeting in Murree, I may explain the circumstances under which the President under rule 14 (2) permitted the meeting to be held at Murree. Sir, the most important member of this Judiciary Committee was the Chief Justice of Pakistan who at present is at Murree and whose health did not permit him to come down to Karachi and participate in the meetings here. He had submitted a very long note on all the items on the whole questionnaire that had been referred to the public and those items had to be taken into consideration, and therefore, his presence and advice to the Committee was absolutely indispensable. It was under those circumstances that the President decided that the Committee should go and hold its meetings at Murree where the Chief Justice was willing to participate ; and try to finish the work. Now, five Members attended the meetings at Murree—one was already there, Chief Justice of Pakistan, as I have said. Therefore, there was not much additional expenditure. And one was the Chief Minister of North-West Frontier Province, whose headquarters at that time were at Nathiagali and he used to come and attend the meetings every morning and go back in the evening. Three Members went from here—two from Karachi and one from Dacca, Member of the Opposition. Therefore, you would see,

Sir, that there was not much expenditure as the Honourable Members think it to be and also, Sir, I might tell you that the Committee held seven sittings over there at Murree and finished all the work that was entrusted to it in those seven sittings. They worked from 7 to 8 hours everyday and were able to finish the work because the President rightly decided that the meetings should be held there where we could work very well and the Chief Justice, in spite of his age and in spite of his health, was able to devote so much time everyday to it only because we were over there and I am certain, Sir, that if the meetings had been held or fixed at Karachi, the matter would have dragged on and the disposal of the Constitution in that essential part would not have been finished in time. Those were the circumstances under which the President had permitted the meeting to be held at Murree.

***Mr. Nur Ahmed** (East Bengal : Muslim) : Sir, I rise to oppose the resolution not because I do not want economy in the State of Pakistan—every measure for economy should have our support—but I oppose this resolution on the ground that it contains, I would not say direct, but indirect aspersion on the conduct of the Honourable the President.

Prof. Raj Kumar Chakraverty : No, no.

***Mr. Nur Ahmed** : I do not think that the Honourable the President can allow to incur unnecessary expenditure. I find from rule 14 of the Assembly which says that it is the President who can allow, in special circumstances, to hold the meetings of the Constituent Assembly or its Committees in any other place except Karachi. Sir, from that point of view, I have greatest objection to the resolution. I do not think, for a moment that our Honourable President is not conscious to the economy or finances of Pakistan when he is aware that Pakistan is a poor country. Though there is a certain complacency in some quarters that Pakistan's economy is unsound, I do not think there is any room for that complacency in this State of Pakistan. That is the one reason why I oppose this resolution.

Secondly, I oppose it because it is unnecessary in view of rule 14 which says meetings including the meetings of the Committee ordinarily should be held at Karachi. So, there is no necessity and I also oppose this resolution because it is not worth passing by this august Assembly. The Constituent Assembly is a very august body and such questions should not be raised in this Assembly. It is on these grounds that I oppose the resolution and I appeal to the honourable mover to withdraw it.

Mr. Serajul Islam : Mr. President, Sir, I think the mover of this motion is confusing the two different functions of this House, namely, the legislative and the constitution-making functions. So far as the constitution-making function of this House is concerned, we are here to incur any amount of expenditure which may be required for the making of a good constitution. I do not care whether we go to Murree or to Rangamati in the Chittagong Hills in East Bengal for this purpose. The whole thing should be centred round the idea that we are here to make a good constitution. If in the interest of making a good constitution we have got to go to any place in Pakistan, we must go there. If it is necessary for a Committee to go to any place in order to get the best possible evidence, it must go there at any cost. I think that should be our spirit while making the constitution. It is very good to talk of economy at the very outset. The face-value of it is very good. But so far as the constitution-making aspect of this House is concerned, we have come here to make a good constitution of a free country and we are determined to make a good constitution at any cost. If it requires

* Speech not corrected by the Honourable Member.

[Mr. Serajul Islam]

a certain amount of expenditure to be incurred, we must be prepared to do that.

Mr. Ahmed E. H. Jaffer (Sind : Muslim) : Mr. President, Sir, I had no desire to take part in this debate which has gone on so long, but I would like to point out one thing. From what I have heard about these visiting members who visit Karachi for Committee meetings, it is very necessary that we should take them to far away places like Nathiagali where there are no attractions. When they come to Karachi, they have many attractions and they attend many parties. So, it is very necessary that they should be sent to a place like Nathiagali where they can devote more time for the study of papers and other work of the Committee. Besides, it is necessary that such meetings should be held at places like Nathiagali and Murree where the climate is bracing and where Members can put in more hours of work and where meetings can be held both in the morning and in the afternoon. From what little I have heard of this place I can say that it has got a very good climate and when such an important report is to be written and such important matters are to be discussed, it is an ideal place for this purpose. As you know, there is a hue and cry everywhere that we are not framing our constitution as quickly as we should and therefore it is very necessary that this constitution, which is to be framed, should be drafted at a place where members can devote more time and frame the constitution without any disturbance of any kind whatsoever.

Sir, most of the Members of this Committee are Ministers and, when they are in Karachi, they are disturbed. When meetings of similar Committees were held in Karachi, they were held only for half days. When the visiting members come to Karachi and the meetings are thus being held for a longer number of days, we have to pay them more daily allowance with the result that it is more economical if meetings are held in far away places where they can devote more hours and finish the work in lesser number of days than they would in Karachi.

Then, I oppose this motion from another point of view. You would have noticed that most of these important Conferences are being held in Geneva, Annecy near the lakes. Why is it that this year they are holding the Tariff Conference in Torquay? Why is it that all members from various parts of the world assemble at such places where the climate is more bracing? It is simply because at such places they can work for longer hours and can devote more time for work. On these grounds I oppose this motion.

***Mr. Bhabesh Chandra Nandy** (East Bengal : General) : Sir, I rise to support the resolution moved by my friend, Prof. Chakraverty. Most of the Honourable Members who have opposed it have missed the real point. There are two points to be considered. The first point is the need for economy. There is nothing to be said against it because this should be the primary consideration of every member here. Secondly, if there be any extraordinary condition for our going outside Karachi to hold the meeting of a Committee, there is no bar in this resolution for doing so. The resolution says that ordinarily no meetings of Committees should be held at places other than Karachi. So, if it is considered absolutely necessary to hold a meeting outside Karachi, that may be done. But let it not be made a fashion to go to the hill stations and other places to hold these meetings. This is the directive given in the resolution. My point in support of this resolution, therefore, is this : if we are conscious of the fact that the consideration of economy in expenditure is a primary consideration, then we do not bar the holding of the meetings

outside Karachi but such meetings outside Karachi should not be held ordinarily. That is the only purpose of the resolution. I think the spirit of the resolution is such that nobody can say anything against it and therefore, it should be accepted by the House.

***Shri Dharendra Nath Dutta** (East Bengal : General) : Mr. President, Sir, this resolution lays stress on the necessity for making economy and there cannot be any opposition to it. It has been said that for the making of the constitution we must go to a place where the climate is congenial. But, Sir, for the making of the constitution it is also necessary that we must have the use of proper books. I think that at Nathiagali and other places we have not got those books which we can expect to have at Karachi. The analogy with other countries does not apply. At Geneva and other places there is a library where you can have all sorts of books.

Mr. President : But your brains are cool at Nathiagali !

***Shri Dharendra Nath Dutta** : That may be. But when we go to places like Nathiagali, it is impossible to get any books. As it is, we find it difficult to get all the books in Karachi itself. But if we go to such outlying stations, we shall not be able to get any books at all, which is absolutely necessary for the purpose of making the constitution of our State. I do not think, therefore, that the resolution can be objected to because we all agree that there is need of economy and the only purpose of this resolution is that it lays emphasis on the necessity of economy and this is the only recommendation which it makes. Therefore, I do not see any necessity of opposing this resolution. In fact, it should be supported by all. And as my honourable friend has just drawn the attention of the House, this resolution only says that the meetings should not ordinarily be held at places other than Karachi. Ordinarily the meetings should be held in Karachi, especially when the making of the constitution of the country is involved, because we can have the necessary reference books here. Therefore, this resolution should be supported by all the Members.

Mr. Akshay Kumar Das (East Bengal : General) : Mr. President, Sir, After hearing Mr. Dutta, I have felt tempted to speak a few words. The speech which he has just delivered on the floor of this House is nothing but a reflection on the members concerned. We, the Members, are supposed to observe economy of the State so what Mr. Dutta has spoken is nothing but a reflection on the fairness or on the conscience of the Members of the House. I therefore, oppose this resolution.

Sir, the wording of the resolution is very loose. The mover could not decide in his mind whether the resolution would be correct one, so he put the word "ordinarily". Therefore, it means that sittings of the Committees were rightly held outside Karachi and they can move all over Pakistan as has been suggested by Mr. Sris Chandra Chattopadhyaya, who also opposed the motion. So I also oppose this motion on the ground that it is not desirable to bring forward such resolutions. The motion points some sort of defect in us and it points out that this House does not mind if money is spent lavishly.

Sir, I oppose the motion.

The Honourable Mr. Liaquat Ali Khan : I am grateful to the honourable mover of this motion for stating that he did not intend to censure the Government or disapprove of any of its actions, because the holding of Committees was not the responsibility of the Government. I am grateful for this statement for the reason that the Government is blamed for acts of omission or commission by anybody, even including nature,

*Speech not corrected by the Honourable Member.

[The Honourable Mr. Liaquat Ali Khan]

and, therefore, I am glad that he has made that clear. The responsibility, if any, lies on the members of the Committees themselves and I understand that Prof. Raj Kumar Chakraverty was, and is, a member of one of these Committees that met at Nathiagali and Murree.

Prof. Raj Kumar Chakraverty : I am not, Sir.

The Honourable Mr. Liaquat Ali Khan : You are not ? That makes my task easier, Sir. It really seems to me a case of disappointment ! I was under the impression that Prof. Raj Kumar Chakraverty was a member and now after having enjoyed the hospitality and coolness of Nathiagali he had turned an approver ! But that is not so. It is really a case of disappointment at not having been one of those lucky ones who improved their health by going to Nathiagali or Murree. I do not think Prof. Chakraverty needs any improvement in health and I am sure if he had been one of the members he might have improved in intellect !

As has been pointed out by the other Honourable Members this motion is unnecessary, for the reason that it is already provided in the rules that the meetings will ordinarily be held in Karachi, except with the permission of the President when he thinks that it is necessary to hold meetings somewhere else. I do not know what my honourable friend wants or desires further by moving this resolution because he also says that ordinarily meetings shall be held in Karachi. Well, that is already in the rules. The question arises as to who is to decide whether there are any exceptional circumstances ? Well, naturally, it can only be the President and that already is provided in the rules. Therefore, Sir, I think, either my friend did not read the rules carefully or, as I said, it was due to disappointment, and I hope that some other Committee, of which he is a member, will meet in some more suitable place than Karachi.

Now, Sir, Mr. Jaffer has said—I do not agree with him—that work cannot be carried on in Karachi. We have carried on work here and I would remind the members of the Basic Principles Committee that we finished our task as quickly as the other Committees did in Nathiagali or Murree. He said that there are so many amusements and so many detractions in Karachi that it is difficult to find time to attend to business. Probably that is the reason why my friend visits Europe every other month to get away from the detractions of Karachi, which do not give him time enough to devote himself seriously to the business of public matters.

Sir, so far as we are concerned, it is really for the Members to decide whether they want to pass this resolution or not, but I would like to point out that by passing this resolution the Members would be guilty of casting an aspersion on their colleagues who are members of those Committees, and it would merely mean that those Honourable Members who are members of those Committees do not realise their responsibility and they are irresponsible men who neither have regard for economy nor for anything else. I am sure that is not the intention of my friend, Prof. Chakraverty.

Prof. Raj Kumar Chakraverty : Yes, Sir.

The Honourable Mr. Liaquat Ali Khan : All that he desired was to draw the attention of the House to this fact—that some meetings were held in those two places—and probably he was not aware that already there is a provision similar to what he desires in the rules, and, as such, I am sure that this resolution having served its purpose he would not insist on pressing it further.

Prof. Raj Kumar Chakraverty : Sir, I beg to withdraw the resolution with a few words. I join issue with the Honourable the Prime Minister when he says that this is a case of disappointment ! Secondly, Sir, I emphatically say that I had no mind to cast any aspersion on any of my colleagues in this matter ; all I desire was to focus the attention of the Members to the need of economy and as that purpose has been served I withdraw the resolution.

Mr. President : Leave has been asked by Prof. Kumar Chakraverty to withdraw the resolution. Is there any objection ?

(No objection was raised by any Honourable Member).

The resolution was with the leave of the House withdrawn.

Mr. President : The House stands adjourned till 11 A.M. on the 4th October next.

The Constituent Assembly then adjourned till Eleven of the Clock, on Wednesday, the 4th October, 1950.

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CONFIDENTIAL

To

THE CONSTITUENT ASSEMBLY OF PAKISTAN,

KARACHI.

IN accordance with the provisions of Rule 72 (1) of the Constituent Assembly Rules I submit herewith the Interim Report of the Basic Principles Committee regarding the Federal and Provincial Constitutions and Distribution of Powers.

The Basic Principles Committee was appointed on March 12, 1949, by a Resolution of the Constituent Assembly to report, in accordance with the motion adopted by the Assembly on Aims and Objects, on the main principles on which the Constitution of Pakistan is to be framed; the text of the Resolution is given in Annexure I. The Chief Ministers of the Provinces of East Bengal, Sind and N.-W. F. P. and the Honourable Mr. Justice Abdur Rashid were co-opted as Members.

The Basic Principles Committee appointed a Steering Sub-Committee to report on the scope, functions and procedure of the Committee, and in pursuance of its report the following three Sub-Committees were appointed to make recommendations embodying the main principles with regard to the subjects assigned to them :

- (i) Sub-Committee on Federal and Provincial Constitutions and Distribution of Powers.
- (ii) Sub-Committee on Franchise.
- (iii) Sub-Committee on Judiciary.

It was also decided to set up a Board of Talimaat-i-Islamia consisting of five members to advise on matters arising out of the Objectives Resolution and on such matters as may be referred to them by the Basic Principles Committee or any other Committee or Sub-Committee.

The Board of Talimaat-i-Islamia began functioning in September, 1949, with four members. The Chairman, Al-Haj Maulana Sulaiman Nadvi, has not taken charge as yet. A Special Committee of the Sub-Committee on Federal and Provincial Constitutions held discussions with the Board of Talimaat-i-Islamia and their report along with the recommendations of the Board of Talimaat-i-Islamia was considered by the Sub-Committee.

The Federal and Provincial Constitutions and Distribution of Powers Sub-Committee submitted its report on the 11th July, 1950, and the Committee

considered this report during its meetings held on August 5, 9, 10 and 11, 1950. The reports of the other two Sub-Committees on Franchise and on Judiciary have not yet been submitted.

The Committee has not been able to finalize its recommendations in regard to several other matters, such as financial allocations, nomenclature, qualifications of the Head of the State, etc.

The recommendations of the Basic Principles Committee are accordingly presented to the Assembly in the form of an interim report. As envisaged in the terms of reference of this Committee, only the basic principles have been dealt with.

The recommendations of the Committee are given in Annexures II and III.

The recommendations given in Annexure II cover the following field :

- (1) Type of Federation ;
- (2) General features of the Federal Constitution ;
- (3) Powers and functions of the Legislatures ;
- (4) The Head of the State, his powers and functions ;
- (5) Provision for residuary powers ;
- (6) Provision in case of conflict of Legislation ; and
- (7) Division of administrative, including financial powers.

Annexure III deals with the distribution of various subjects amongst the Centre and the provinces for the purpose of Legislation and comprises the following lists, namely :

- (1) List of powers to be assigned to the Federal Legislature ;
- (2) List of powers to be assigned to the Legislatures of the Provinces.
- (3) Concurrent List.

The Committee has appointed Mr. Zahid Husain, Governor of the State Bank of Pakistan, as an expert to examine the question of financial allocations between the Centre and the Provinces.

The Basic Principles Committee has also appointed a special Committee consisting of Dr. Mahmud Husain as convener and Dr. I. H. Qureshi and Dr. Maulvi Abdul Haq as members to report on appropriate nomenclature.

KARACHI :
September 7, 1950.

TAMIZUDDIN KHAN,
Chairman,
Basic Principles Committee.

ANNEXURE I

RESOLUTION

That this Assembly resolves that a Committee consisting of the President and the following Members, namely :

- (1) The Hon'ble Sir Muhammad Zafrulla Khan,
- (2) The Hon'ble Mr. Ghulam Mohammed,
- (3) The Hon'ble Sardar Abdur Rab Khan Nishtar,
- (4) The Hon'ble Khwaja Shahabuddin,
- (5) The Hon'ble Pirzada Abdus Sattar,
- (6) The Hon'ble Mr. Fazlur Rahman,
- (7) The Hon'ble Mr. Jogendra Nath Mandal,
- (8) Dr. Omar Hayat Malik,
- (9) Maulana Shabbir Ahmad Osmani,
- (10) Dr. Ishtiaq Husain Qureshi,
- (11) Mr. Kamini Kumar Datta,
- (12) Begum Jahan Ara Shah Nawaz,
- (13) Malik Mohammad Firoz Khan Noon,
- (14) Mr. Sris Chandra Chattopadhyaya,
- (15) Mian Mumtaz Muhammad Khan Daultana,
- (16) Maulana Mohd. Akram Khan,
- (17) Mian Mohammad Iftikharuddin,
- (18) Khan Sardar Bahadur Khan,
- (19) Dr. Mahmud Husain,
- (20) Begum Shaista Suhrawardy Ikramullah,
- (21) Mr. Prem Hari Barma,
- (22) Mr. Nazir Ahmad Khan,
- (23) Shaikh Karamat Ali, and
- (24) the mover (The Hon'ble Mr. Liaquat Ali Khan)

be appointed, with powers to co-opt not more than ten Members who need not be Members of the Constituent Assembly, to report as early as possible in accordance with the motion adopted by this Assembly on Aims and Objects, on the main principles on which the Constitution of Pakistan is to be framed.

The presence of at least seven Members shall be necessary to constitute a meeting of this Committee.

ANNEXURE II

**MEMORANDUM ON FEDERAL AND PROVINCIAL CONSTITUTIONS AND
DISTRIBUTION OF POWERS**

PART I**DIRECTIVE PRINCIPLES OF STATE POLICY****1. The Objectives Resolution.**

The Objectives Resolution should be incorporated in the Constitution as a Directive Principle of State Policy, subject to the provision that this will not prejudice the incorporation of Fundamental Rights in the Constitution at the proper place.

2. Education.

Steps should be taken in many spheres of governmental activities to enable the Muslims, as laid down in the Objectives Resolution, to order their lives in accordance with the Holy Quran and the *Sunna*.

It is not possible to enumerate the details of such activities in the Constitution. The incorporation of the Objectives Resolution, however, as a Directive Principle of State Policy would guide the Governments of the Centre and the Units in this respect.

An important point in this connection is the provision of facilities for the Muslims to understand what life in accordance with the Holy Quran and the *Sunna* means and, therefore, the Committee, among other things, lays particular emphasis on the compulsory teaching of the Holy Quran to the Muslims.

3. Wakfs and Mosques.

Wakfs and mosques should be organized on proper lines.

PART II
THE FEDERATION AND ITS TERRITORIES**4. Name and Territories of the Federation.**

The name of the State should be Pakistan, which should be a Federation of the Governors' Provinces, the Chief Commissioner's Province, the Capital of the Federation and such States as have acceded or may accede to the Federation.

All other territories not specified above which form part of Pakistan on the date of the enforcement of this Constitution should be included in the territories of Pakistan.

5. (1) **Alteration of Boundaries and Names of Provinces.**

The Central Legislature may by law—

- (a) increase the area of any Province ;
- (b) diminish the area of any Province ;
- (c) alter the boundaries of any Province ; and
- (d) alter the name of any Province :

Provided that no Bill for the purpose should be introduced in either House of the Central Legislature except by the Government of Pakistan and unless—

(A) either—

- (i) a representation in that behalf has been made to the Head of the State by a majority of the representatives of the territory in the Legislature of the Province from which the territory is to be separated or excluded ; or
- (ii) a resolution in that behalf has been passed by the Legislature of any Province whose boundaries or name will be affected by the proposal to be contained in the Bill ; and

(B) where the proposal contained in the Bill affects the boundaries or the name of any Province, the views of the Legislature of the Province both with respect to the proposal to introduce the Bill and with respect to the provisions thereof have been ascertained by the Head of the State.

6. **Establishment of New Provinces.**

The Central Legislature may, from time to time, by law, admit into the Federation, or establish, new Provinces on such terms and conditions as it thinks fit.

P A R T I I I

THE FEDERATION

CHAPTER I

The Executive

The Head of the State

7. **The Head of the State.**

(1) There should be a Head of the State.

(2) The executive power of the Federation should vest in the Head of the State to be exercised by him in accordance with the Constitution and the law.

(3) Except in those cases where it is provided that the Head of the State should act in his discretion or, unless there is something to the contrary in the context, the term “ Head of the State ” means the Head of the State acting on the advice of the Ministry.

8. Election of the Head of the State.

(1) The Head of the State should be elected by a joint session of both the Houses of the Central Legislature and should not be a member of either House.

(2) A Member of either House, if elected Head of the State, should cease to be a member after his election.

9. Term of Office of the Head of the State.

The term of office of the Head of the State should be five years from the date of his assumption of office. In case of a vacancy in the office of the Head of the State as a result of death, resignation, incapacity or otherwise, the term of office of the new Head of the State should be five years.

10. Eligibility for Re-election.

No person should be allowed to hold the office of the Head of the State consecutively for more than two full terms.

11. Deputy Head of the State.

There should be no Deputy Head of the State.

12. Casual Vacancy in the Office of the Head of the State.

(i) In case of any casual vacancy in the office of the Head of the State the following persons should act as Head of the State till such time as a new Head of the State is elected and assumes office in the order given below :

(1) the President of the House of Units,*

(2) the President of the House of People,

(3) the seniormost Governor of a Province present in Pakistan.

(ii) As long as the President of the House of Units acts as the Head of the State, he should not act as the President of the House of Units, or in any other way take part in its proceedings. He should not, however, on account of his acting as Head of the State, lose his seat or his office in the House of Units. The same rule should apply *mutatis mutandis* to the President of the House of People or the seniormost Governor if either of them has to act as Head of the State.

13. Oath by the Head of the State.

The Head of the State should take oath of allegiance to the Constitution of Pakistan as well as oath of office and secrecy in the form and manner to be prescribed.

*The Committee has preferred to name the Upper House, i.e., the House representing Provincial Legislatures at the Centre as "the House of Units." In all other respects, the words "Province" and "Provincial" have been retained. The word "Unit," therefore, means Province.

14. Discharge of the functions of the Head of the State in certain contingencies.

The Central Legislature should be entitled to make provision for the discharge of functions of the Head of the State in certain contingencies not provided for in the Constitution.

15. Special Powers of the Head of the State.

The Head of the State should possess special powers, such as running elections, and should be given authority to take all necessary steps to ensure free and impartial elections.

16. Supreme Command of the Armed Forces.

The Supreme Command of the Armed Forces should vest in the Head of the State.

17. Appointment of Commanders-in-Chief and Officers of the Armed Forces.

The Commanders-in-Chief of each of the three Armed Forces, the Supreme Commander of the Armed Forces, if any, and officers in the Armed Forces should be appointed by the Head of the State.

18. Discretionary Powers of the Head of the State.

The following powers should be exercised by the Head of the State in his discretion :

- (1) powers of clemency, and
- (2) appointment of Election Tribunals.

Explanation—Wherever the words “ special powers ” or “ special responsibility ” are used, they should mean the exercise of power by the Head of the State or the Head of the Province, as the case may be, in his discretion.

19. Pay and Allowances of the Head of the State.

Suitable provision should be made for fixing the pay and allowances of the Head of the State according to his status and dignity.

The Committee accepted the principle that a reasonable sum in the form of pension or allowance may be allowed to the Head of the State for his life after his retirement. This allowance or pension will be deemed as suspended while he is holding any office of profit.

If the Head of the State is removed in accordance with the Constitution, for misconduct, he should not be entitled to any allowance or pension.

20. Protection for the Head of the State.

(1) The Head of the State should not be answerable to any court for the exercise and performance of the powers and duties of his office or for any act done or purporting to be done by him in the exercise and performance of those powers and duties.

(2) No criminal proceedings whatsoever should be instituted or continued against the Head of the State in any court as long as he holds office.

(3) No process for the arrest, imprisonment or appearance of the Head of the State should issue from any court as long as he holds office.

(4) No civil proceedings in which relief is claimed against the Head of the State should be instituted during his term of office in respect of any act done or purporting to be done by him in his personal capacity whether before or after he entered upon his office as Head of the State until the expiration of 60 days next after notice in writing has been sent to the Head of the State, or left at his office stating the nature of the proceedings, the cause of action therefor, the name, description and place of residence of the party by whom such proceedings are to be instituted and the relief which he claims.

21. Bar against impeachment of the Head of the State and Others.

No provision should be made in the Constitution for the impeachment of the Head of the State or the Heads of Provinces, the Ministers of the Central and Provincial Governments and the Members of the Central and Provincial Legislatures.

22. Removal of the Head of the State.

The Central Legislature should be entitled to remove the Head of the State from his office provided a requisition was received from a majority of the Members of each House to that effect and the resolution passed by a joint session of both the Houses of the Legislature by a majority of not less than two-thirds of the total strength, and not merely of the Members present and voting.

Further, a month's notice would be necessary for the removal of the Head of the State.

Council of Ministers

23. Council of Ministers to aid and advise the Head of the State.

The Head of the State should appoint as Prime Minister a person who, in his opinion, commands the confidence of the majority of both the Houses of the Central Legislature jointly. The other Ministers should be appointed on the advice of the Prime Minister.

24. Other Provisions as to Ministers.

Provision should be made for appointing as a Minister a person who is not a Member of either House, provided that a person should cease to be a Minister unless he gets elected within a period of six months from the date of his appointment.

25. Joint Responsibility to the Legislature.

The Ministers in the Centre should be jointly responsible to the Legislature.

26. Oath of Ministers.

The Ministers should be required to take oaths of allegiance, office and secrecy.

*The Advocate General for Pakistan***27. Advocate-General for Pakistan.**

There should be an Advocate-General for Pakistan appointed by the Head of the State. The Advocate-General should be one who is qualified to become a Judge of the Federal Court. There should be no age limit in his case.

*Conduct of Government Business***28. Conduct of Business of the Government of Pakistan.**

Provision should be made in the Constitution for framing rules by the Head of the State for the conduct of Government business.

29. Duties of Prime Minister as respects furnishing of information to the Head of the State.

Provision should be made whereby the Head of the State should be kept informed of all the decisions of the Council of Ministers and the proposals for legislation. The Head of the State should also be furnished with such information relating to the administration of the affairs of the State and the proposals for legislation as he might call for.

CHAPTER II

*The Central Legislature***30. Constitution, Powers and Functions of the Central Legislature.**

There should be a Central Legislature consisting of two Houses :

- (1) The House of Units representing the Legislatures of the Units.
- (2) The House of People elected by the people.

31. Representation of Provinces.

The existing Provinces, including Baluchistan, should have equal representation in the House of Units (Upper House).

32. Representation of the Centrally-Administered Areas.

Although the centrally-administered areas cannot be given representation in the House of Units, for the reason that they are not Provinces, the Committee recommends that they must be represented in the House of People (Lower House) on the same basis as other Provinces.

33. Disqualification for Membership.

No person should be entitled to remain at the same time a Member of—

- (i) both the Houses of the Central Legislature, or
- (ii) any House of the Central Legislature and a Provincial Legislature.

34. Duration of the Houses of the Central Legislature.

The life of either House of the Central Legislature should be five years.

35. Summoning of the Houses of the Central Legislature.

(1) The Head of the State should summon the Legislature.

(2) Not less than two sessions should be held every year, and not more than six months should elapse between the last day of the last session and the first day of the next session.

(3) A session of the Legislature should be called within three months from the date of appointment of the Prime Minister.

36. Summoning of Joint Session of the Houses of the Central Legislature.

Power to convene a joint session should vest in the Head of the State. A joint session should be summoned in the following cases :

(1) Conflict between the Houses of Legislature.

(2) Election and removal of the Head of the State.

(3) Consideration of the Budget and other money Bills.

(4) Consideration of a motion of no-confidence in the Cabinet.

37. Prorogation of the Central Legislature.

The Central Legislature should be prorogued by an order of the Head of the State.

38. Dissolution of the Central Legislature.

(1) The first dissolution of the Legislature should be on the advice of the Prime Minister.

(2) No dissolution should take place on the advice of the Caretaker Ministry which functions between the date of the dissolution of the Legislature and the formation of a new Ministry after fresh elections.

(3) If a contingency arises wherein no such Ministry as can command the confidence of the Legislature can be formed, the Head of the State should be authorized to dissolve the Legislature in exercise of his discretionary powers and hold fresh elections.

Explanation—As the Committee has recommended that the Ministry should be responsible to both the Houses of the Legislature, it is necessarily implied that under the Constitution the dissolution of both the Houses should take effect simultaneously.

39. Powers of the two Houses *inter se* and provision for Conflict.

The two Houses of the Central Legislature should have equal powers and, in case of dispute on any question, a joint session of both the Houses should be called for taking a decision thereon.

The Budget and other money Bills should be considered jointly by both the Houses.

40. Right of Ministers and the Advocate-General as respects the Central Legislature.

The Ministers and the Advocate-General should have the right to address any House of the Legislature even though they may not be Members of that House. The Advocate-General should have no right of vote as he will not be a Member of the Legislature.

A Minister should not vote in the House of which he is not a Member.

41. The Chairman and the Deputy Chairman of the Central Legislature.

Each House should have a Chairman and a Deputy Chairman.

Provision should be made in the Constitution regarding the election and the removal of the Chairman and the Deputy Chairman on the following lines :

- (i) Each House of the Central Legislature should, as soon as may be, choose two Members of the House to be respectively Chairman and Deputy Chairman thereof and, so often as the office of Chairman or Deputy Chairman becomes vacant, the House concerned should choose another Member to be Chairman or Deputy Chairman as the case may be.
- (ii) A Member holding office as Chairman or Deputy Chairman of any of the Houses should vacate his office if he ceases to be Member of the House, and may at any time resign his office by writing under his hand addressed to the Head of the State and may be removed from his office by a resolution of the House passed by a majority of all the then Members of the House, but no resolution for the purpose of this sub-para should be moved unless at least fourteen days' notice has been given of the intention to move the resolution.
- (iii) While the office of the Chairman is vacant, the duties of the office should be performed by the Deputy Chairman, or if the office of the Deputy Chairman is also vacant, by such Member of the House as the Head of the State may appoint for the purpose. During the absence of the Chairman from any sitting of the House, the Deputy Chairman or, if he is also absent, such person as may be determined by the rules of procedure of the House, or if no such person also is present, such other person as may be determined by the House should act as Chairman.
- (iv) The same rule should apply *mutatis mutandis* to the office of the Deputy Chairman.

While acting as Chairman of the House concerned, the Deputy Chairman should exercise similar powers as the Presiding Officer. There should also be provision for the delegation of powers by the Chairman to the Deputy Chairman

or to the person who acts as Chairman of the meeting in the absence of the Chairman or the Deputy Chairman.

- (v) In joint sessions the Chairman of the House of Units should preside. In his absence the Chairman of the House of People should preside and in case both of them are absent, such other person as may be determined by rules should preside.

42. The Secretariat of the Central Legislature.

The Committee unanimously held the view that the Secretariat of each of the Houses of the Central Legislature should be absolutely independent and should be under the House as such. Also there was unanimity on the point that the Finance Committee of each House should scrutinize all the financial proposals relating to the expenditure of its respective House and thereafter the Budget should be presented to the House.

The Chairman of each House should be the Chairman and the Finance Minister an *ex officio* Member of its Finance Committee ; the Finance Committee of each House should exercise similar power of control and direction in matters relating to the finances of each House of the Central Legislature as are exercised by the Standing Finance Committee with regard to Government expenditure.

In view of the special nature of the work rules should be framed by the Finance Committee to secure to itself closer contact and effective voice in regulating the finances of the House to which it relates.

43. Oath of Members : Failure or Refusal to take Oath.

The Members of the Central Legislature should be required to take an oath of allegiance. No Member should take his seat in the House as long as he has not taken the prescribed oath. Provision should be made that where a Member fails or refuses or declines to take the oath of allegiance within a period not exceeding six months from the date of the first meeting of the Legislature, his seat should be declared vacant, provided that before the expiry of the above-mentioned period the Chairman may on good cause shown extend the period.

44. Voting in Houses and Quorum.

Except for cases in which a specific majority is provided, such as the removal of the Head of the State, all decisions in each of the Houses of the Central Legislature should be taken in accordance with rules framed by the House concerned. The presiding officer of any House of the Legislature should not exercise any vote except the casting vote in case of a tie. The Houses of the Legislature should be entitled to conduct their business even if there is a vacant seat and the proceedings should not be invalidated on that account.

The quorum for a meeting of each House, or for a joint meeting of both the Houses, should be one-seventh of the total number of the Members of each House or of both the Houses as the case may be.

45. Ordinances by the Head of the State.

Ordinances passed by the Head of the State during the period the Legislature is not sitting should be laid before the Legislature at its next meeting. Some period should be fixed to restrict the operation of ordinances.

46. Joint Sitzings of both Houses.

Rules for joint sittings of the two Houses should be framed by a joint sitting of both Houses.

47. Assent to Bills.

(1) When a Bill has been passed by the Central Legislature it should be presented to the Head of the State for his assent.

(2) The Head of the State should, within ninety days of the presentation of a Bill, either declare his assent or return the Bill, with or without message, to the Legislature concerned. In case the Legislature passes the Bill again, with or without any amendment, it should be assented to within thirty days.

(3) In the case of money Bills the Head of the State should either assent or return them for reconsideration to the House within three days. If the House sends them back, his assent must be given within three days.

48. Annual Financial Statement.

There should not be any formal recommendation by the Head of the State regarding the annual financial statement. Such proposal should be placed before the Legislature only at the instance and on behalf of the Government.

49. The Budget.

In view of the fact that the Committee has recommended that the Budget and certain financial matters should be placed before the joint session of both the Houses of the Legislature, the Committee further recommends that a special procedure should be laid down in the Constitution to deal with financial matters, the Budget and the way in which it should be presented to the Legislature.

50. Authentication of the Schedule of Expenditure.

The Head of the State should authenticate the Schedule of Expenditure.

51. Rules of Procedure.

Each House should determine its own rules of procedure for transacting business. Pending the framing of the new rules the existing rules, with such adaptations as may be necessary, should be applicable. Machinery should be provided for effecting such adaptations.

*Audit and Accounts and Appointment of Auditors-General.***52. Auditor-General of Pakistan.**

Provisions should be incorporated in the new Constitution on the following lines :—

(1) There should be an Auditor-General of Pakistan, who should be appointed by the Head of the State and should only be removed from office in like manner and on the like grounds as a Judge of the Federal Court.

(2) The conditions of service of the Auditor-General should be such as may be prescribed by an order of the Head of the State, and he should not be eligible for further office under the State after he has ceased to hold office :

Provided that neither the salary of an Auditor-General nor his rights in respect of leave of absence, pension or age of retirement should be varied to his disadvantage after his appointment.

(3) The Auditor-General should perform such duties and exercise such powers in relation to the accounts of the Federation and of the Provinces as may be prescribed by, or by rules made under, an order of the Head of the State, or by any subsequent Act of the Central Legislature varying or extending such an order :

Provided that no Bill or amendment for the purpose aforesaid should be introduced or moved without the previous sanction of the Head of the State.

(4) The salary, allowances and pension payable to or in respect of an Auditor-General should be charged on the revenues of the Federation, and the salaries, allowances and pensions payable to, or in respect of, members of his staff should be paid out of those revenues.

53. Provincial Auditor-General.

The appointment and removal of the Provincial Auditor-General should be in the same manner and by the same authority as in the case of the Auditor-General of Pakistan.

(1) If after the expiry of ten years from the date of the enforcement of the new Constitution a Provincial Legislature passes an Act charging the salary of the Auditor-General for the Province on the revenues of the Province, an Auditor-General of the Province may be appointed by the Head of the Province to perform the same duties and to exercise the same powers in relation to the audit of the accounts of the Province as would be performed and exercised by the Auditor-General of Pakistan, if an Auditor-General of the Province had not been appointed.

(2) The provisions relating to the Auditor-General of Pakistan should apply to the Auditor-General of a Province and his staff, subject to the following modifications, that is to say :

(a) A person who is, or has been, Auditor-General of a Province should be eligible for appointment as Auditor-General of Pakistan ;

- (b) in sub-para (2) and (3) of the paragraph relating to the Auditor-General of Pakistan for the reference to the Central Legislature there should be substituted a reference to the Provincial Legislature, and for the reference to the Head of the State there should be substituted a reference to the Head of the Province ; and
- (c) in sub-para (4) of the paragraph relating to the Auditor-General of Pakistan for the reference to the revenues of the Federation there should be substituted a reference to the revenues of the Province :

Provided that nothing in the preceding part of this paragraph should derogate from the power of the Auditor-General of Pakistan to give such directions in respect to the accounts of the Provinces as are mentioned in the succeeding part of this paragraph.

54. Power of Auditor-General of Pakistan to give directions as to Accounts.

The accounts of the Federation should be kept in such form as the Auditor-General of Pakistan may, with the approval of the Head of the State, prescribe and, in so far as the Auditor-General of Pakistan may, with the like approval, give any directions with regard to the methods or principles in accordance with which any accounts of Provinces ought to be kept, it should be the duty of every Provincial Government to cause accounts to be kept accordingly.

55. Audit Reports.

The reports of the Auditor-General of Pakistan relating to the accounts of the Federation should be submitted to the Head of the State, who should cause them to be laid before the Central Legislature, and the reports of the Auditor-General of Pakistan or of the Auditor-General of the Province, as the case may be, relating to the accounts of a Province should be submitted to the Head of the Province, who should cause them to be laid before the Provincial Legislature.

P A R T I V

THE PROVINCES

CHAPTER I

The Executive

56. Heads of the Provinces.

There should be a Head of the Province for each Province.

57. Executive Power of the Province.

The executive power of a Province should be exercised on behalf and in the name of the Head of the Province in accordance with the Constitution and law.

Except in those cases where it is provided that the Head of the Province should act in his discretion and unless there is something

to the contrary in the context, the term "Head of the Province" means "Head of the Province acting on the advice of the Ministry".

In matters where the Head of the Province is to exercise his discretion and in matters of appointment and dismissal of Ministers, the Head of the Province should be under the supervision, control and direction of the Head of the State.

58. Appointment of the Head of the Province.

The Head of the Province should be appointed by the Head of the State.

59. Term of Office of the Head of the Province.

The Head of the Province should hold office during the pleasure of the Head of the State.

60. Oath of the Head of the Province.

The Head of the Province should be required to take oaths of allegiance, office and secrecy.

61. Discharge of the functions of the Head of the Province in certain contingencies.

The Provincial Legislature should have the power to make provision for the discharge of functions of the Head of the Province in certain contingencies not provided for in the Constitution.

62. Power of the Head of the Province to grant Pardon, Reprieve, etc.

The power to grant pardon, reprieve, etc., should vest in the Head of the Province to be exercised by him in his discretion.

(The Honourable Khan Abdul Qaiyum Khan dissented.)

63. Assumption of Powers by the Head of the Province.

The Head of the Province should possess the same powers in an emergency as the Head of the State at the Centre, but those powers should be exercised by the Head of the Province under the direction and control of the Head of the State.

64. Special and Ordinary Powers of the Head of the Province.

The running of elections within the Province should be a special responsibility of the Head of the Province and he should be empowered to take all necessary steps to ensure free and impartial elections.

The appointment of Election Tribunals should vest in the Head of the Province in the exercise of his discretion.

65. Protection for the Head of the Province.

(1) The Head of the Province should not be answerable to any court for the exercise and performance of the powers and duties of his office or for any

act done or purporting to be done by him in the exercise and performance of those powers and duties.

(2) No criminal proceedings whatsoever should be instituted or continued against the Head of the Province in any court as long as he holds office.

(3) No process for the arrest, imprisonment or appearance of the Head of the Province should issue from any court as long as he holds office.

(4) No civil proceedings in which relief is claimed against the Head of the Province should be instituted during his term of office in respect of any act done or purporting to be done by him in his personal capacity whether before or after he entered upon his office as Head of the Province until the expiration of 60 days next after notice in writing has been sent to the Head of the Province or left at his office stating the nature of the proceedings, the cause of action therefor, the name, description and place of residence of the party by whom such proceedings are to be instituted and the relief which he claims.

Council of Ministers

66. Council of Ministers to aid and advise the Heads of Provinces.

The Head of a Province should appoint as Chief Minister a person who, in his opinion, commands the majority in the Provincial Legislature.

The other Ministers should be appointed by the Head of the Province on the advice of the Chief Minister of the Province.

In matters of appointment and dismissal of Ministers, the Head of the Province should act under the supervision and control of the Head of the State.

67. Oath of Ministers.

The Ministers in the Provinces should be required to take oaths of allegiance, office and secrecy.

68. Joint Responsibility of Ministers to the Provincial Legislature.

The Ministers in the Provinces should be jointly responsible to their respective Legislatures.

69. Protection in respect of the act of choosing Ministers.

The action of the Head of Province in appointing or dismissing a Minister should not be called in question in any court of law.

70. Conduct of Business of the Government of a Province.

Provision should be made in the Constitution for the framing of rules by the Head of the Province for the conduct of Government business in the Province.

71. Duties of a Chief Minister as respects the furnishing of information to the Head of Province.

Provision should also be made whereby the Head of the Province should be kept informed of all the decisions of the Council of Ministers and the proposals for legislation. The Head of the Province should also be furnished with such information relating to the administration of the affairs of the Province and the proposals for legislation as he might call for.

The Provincial Advocate-General

72. The Provincial Advocate-General.

The Advocate-General of a Province should be appointed by the Head of the Province. He should be a person qualified to become a Judge of the High Court. There should be no age limit.

The Provincial Legislature

73. Constitution of the Provincial Legislature.

There should be one House of Legislature in each Province elected by the people.

74. Life of Provincial Legislature.

The life of a Provincial Legislature should be five years.

75. Summoning of the Provincial Legislature.

(1) The Head of the Province should summon the Provincial Legislature on the advice of the Cabinet.

(2) Not less than two sessions should be held every year, and not more than six months should elapse between the last day of the last session and the first day of the next session.

(3) A session of the Provincial Legislature should be called within three months from the date of appointment of the Chief Minister of the Province.

76. Prorogation of the Provincial Legislature.

The Provincial Legislature should be prorogued by an order of the Head of the Province.

77. Dissolution of the Provincial Legislature.

(1) The first dissolution of the Provincial Legislature should be on the advice of the Chief Minister of the Province.

(2) No dissolution should take place on the advice of the Caretaker Ministry which functions between the date of the dissolution of the Provincial Legislature and the formation of a new Ministry after fresh elections.

(3) If a contingency arises wherein no such Ministry as can command the confidence of the Provincial Legislature can be formed, the Head of the Province should be authorized to dissolve the Provincial Legislature in exercise of his emergency powers and hold fresh elections.

78. Right of Ministers and the Advocate-General as respects Provincial Legislature.

(a) Provision should be made for appointing as a Minister a person who is not a Member of the Provincial Legislature, provided that a person will cease to be a Minister unless he gets elected within a period of six months from the date of his appointment.

(b) The Ministers and the Advocate-General of the Province should have the right to address the Provincial Legislature even though they may not be Members of the Provincial Legislature. The Advocate-General should have no right of vote as he will not be a Member of the Provincial Legislature. Any Minister who is not a Member of the Provincial Legislature should also have no right of vote.

79. The Chairman and Deputy Chairman of the Provincial Legislature.

Provision should be made for the election of a Chairman and a Deputy Chairman of the Provincial Legislature on the following lines :

- (1) Every Provincial Legislature should, as soon as may be, choose two Members of the Provincial Legislature to be respectively Chairman and Deputy Chairman thereof and, so often as the office of Chairman or Deputy Chairman becomes vacant, the Provincial Legislature should choose another Member to be Chairman or Deputy Chairman, as the case may be.
- (2) A Member holding office as Chairman or Deputy Chairman of a Provincial Legislature should vacate his office if he ceases to be a Member of the Provincial Legislature and may at any time resign his office by writing under his hand addressed to the Head of the Province and may be removed from his office by a resolution of the Provincial Legislature passed by a majority of all the then Members of the Provincial Legislature ; but no resolution for the purpose of this sub-para should be moved unless at least fourteen days' notice has been given of the intention to move the resolution :

Provided that whenever the Provincial Legislature is dissolved, the Chairman should not vacate his office until immediately before the first meeting of the Provincial Legislature after the dissolution.

- (3) While the office of Chairman is vacant, the duties of the office should be performed by the Deputy Chairman, or if the office of Deputy Chairman is also vacant, by such Member of the Provincial Legislature as the Head of the Province may appoint for the purpose. During the absence of the Chairman from any sitting of the Provincial

Legislature the Deputy Chairman, or, if he is also absent, such person as may be determined by the rules of procedure of the Provincial Legislature, or if no such person also is present, such other person as may be determined by the Provincial Legislature should act as Chairman.

80. The Secretariat of the Provincial Legislature.

The Secretariat of the Provincial Legislature should be absolutely independent and should be under the Provincial Legislature itself. The Finance Committee of the Provincial Legislature should scrutinize all the financial proposals relating to the expenditure of the Provincial Legislature and thereafter the Budget should be presented to the Provincial Legislature.

The Chairman of the Provincial Legislature should be the Chairman and the Finance Minister of the Province, an *ex officio* Member of the Finance Committee. The Finance Committee of the Provincial Legislature should exercise similar powers of control and direction in matters relating to the finances of the Provincial Legislature as are exercised by the Standing Finance Committee of the Provincial Legislature with regard to Government expenditure.

In view of the special nature of the work rules should be framed by the Finance Committee to secure to itself closer contact and effective voice in regulating the finances of the Provincial Legislature.

81. Oath of Members.

The Members of the Provincial Legislature should be required to take an oath of allegiance. No Member should take his seat in the Provincial Legislature as long as he has not taken the prescribed oath. Provision should be made that where a Member fails or refuses or declines to take the oath of allegiance within a period not exceeding six months from the date of the first meeting of the Provincial Legislature, his seat should be declared vacant: provided that before the expiry of the above-mentioned period the Chairman may, on good cause shown, extend the period.

82. Voting and Quorum.

Except for cases in which a specific majority is provided all decisions in the Provincial Legislature should be taken in accordance with rules framed by the Provincial Legislature concerned. The presiding officer of the Provincial Legislature should not exercise any vote except the casting vote in case of a tie. The Provincial Legislature should be entitled to conduct its business even if there is a vacant seat and the proceedings should not be invalidated on that account.

The quorum for a meeting of the Provincial Legislature should be one-seventh of the total number of the Members of the Provincial Legislature.

83. Powers, Privileges and Immunities of the Provincial Legislature and of the Members and Committees thereof.

The Provincial Legislature should be entitled to legislate about privileges and immunities of its Members. Subject to the Rules and Standing Orders regulating the procedure of the Provincial Legislature, freedom of speech and immunity from any proceedings in any court in respect of anything said or any vote given by a Member of the Provincial Legislature or a Committee thereof should be provided and no person should be liable in respect of publication by or under the authority of the Provincial Legislature concerned of any reports, paper, vote or proceedings. Similar privileges should be provided for those who, though not Members of the Provincial Legislature, are authorized under the Constitution to attend, address and participate in the proceedings of the Provincial Legislature and its Committees.

Pending the passage of a legislation with regard to such matters, the privileges and immunities enjoyed by the Members of the House of Commons in the United Kingdom should be enjoyed by the Members of the Provincial Legislature.

84. Assent to Bills.

A Bill which has been passed by the Provincial Legislature should be presented to the Head of the Province and the Head of the Province should declare either that he assents to the Bill in the name of the Head of the State or that he withholds assent therefrom or that he reserves the Bill for the consideration of the Head of the State.

The Head of the Province should within ninety days of the presentation of a Bill either declare his assent to or return the Bill, with or without message, to the Provincial Legislature to reconsider or amend the Bill. In case the Provincial Legislature passes the Bill again, with or without any amendment, it should be assented to within thirty days unless it is reserved for the assent of the Head of the State.

When a Bill is reserved by the Head of the Province for the consideration of the Head of the State, the Head of the State should declare either that he assents to the Bill or that he withholds assent therefrom, provided that the Head of the State may, if he thinks fit, direct the Head of the Province to return the Bill to the Provincial Legislature together with a message and, when a Bill is so returned, the Provincial Legislature should reconsider it accordingly, and if it is again passed by the Provincial Legislature, with or without amendment, it should be presented again to the Head of the State for his consideration :

Provided that if the Head of the State thinks that he should not give his assent to the Bill for the reason that Central legislation is necessary on the

subject, he may withhold his assent until the said legislation is passed during the next session of the Central Legislature.

In the case of money Bills the Head of the Province should either assent or return them for reconsideration to the Provincial Legislature within three days. If the Provincial Legislature sends them back, his assent must be given within three days.

85. Annual Financial Statement.

There should not be any formal recommendation by the Head of the Province regarding the annual financial statement. Such proposal should be placed before the Provincial Legislature only at the instance and on behalf of the Government.

86. Authentication of the Schedule of Expenditure.

The Head of the Province should authenticate the Schedule of expenditure.

87. Rules of Procedure.

Every Provincial Legislature should determine its own rules of procedure for transacting its business. Pending the framing of new rules, the existing rules, with such adaptations as may be necessary, should be applicable. Machinery should be provided for effecting such adaptations. This machinery should also decide about the rules of procedure of any House which may be created under the present Constitution in any province where no Legislature exists at present.

88. Power of the Head of the Province to promulgate Ordinances during the recess of the Provincial Legislature.

Provision should be made to empower the Head of the Province to promulgate ordinances during the recess of the Provincial Legislature, but these powers should be exercised under the direction and control of the Head of the State. Some period should be fixed to restrict the operation of the ordinances.

P A R T V

RELATION BETWEEN FEDERATION AND ITS UNITS

89. Subject-matter of Laws to be made by the Central Legislature and by the Provincial Legislatures.

The Committee has prepared three comprehensive Lists of Subjects for the purpose of legislation—

- (1) exclusively by the Central Legislature;
- (2) exclusively by the Provincial Legislatures; and
- (3) both by the Central and the Provincial Legislatures.

These three lists—the Federal, the Provincial and the Concurrent—will be found in Annexure III.

The residuary powers of legislation should vest in the Centre.

90. Planning and Co-ordination in respect of matters in the Provincial and the Concurrent Lists.

Provisions should be made for planning and co-ordination by the Centre in respect of matters in the Provincial and the Concurrent Lists, and the Central Legislature should be competent to legislate regarding this.

91. Power of the Central Legislature to legislate for one or more Provinces by consent and adoption of such legislation by any other Province.

If it appears to the Legislature or Legislatures of one or more Provinces to be desirable that any of the matters with respect to which the Central Legislature has no power to make laws for the Province or Provinces, except legislation in respect to any matter in the Provincial List in case of proclamation of emergency, should be regulated in such Province or Provinces by Central Legislature by law, and a resolution or resolutions to that effect is or are passed by the Legislature of the Province or of each of the Provinces it should be lawful for the Central Legislature to pass an Act for regulating that matter accordingly, and any Act so passed should apply to such Province or Provinces and to any other Province by which it is adopted afterwards by resolution passed in that behalf by the Legislature of that Province.

92. Repeal of the Laws made by the Centre.

Any Act passed under the preceding paragraph by the Central Legislature may be amended or repealed by an Act of the Central Legislature passed or adopted in like manner but should not, as respects any Province to which it applies, be amended or repealed by an Act of the Legislature of that Province.

93. Inconsistency between Laws made by the Central Legislature and Laws made by the Provincial Legislatures.

Provision should be made for the Federal Laws to prevail over the Provincial Laws in the case of a conflict.

94. Power to declare a Provincial Law *ultra vires*.

The Head of the State should not possess powers to declare a Provincial Law *ultra vires*. The Federal Court alone should be given this power under the Constitution.

95. Delegation of Powers.

Provision should be made authorizing the Centre to delegate its powers to a Province or some officer thereof, with the consent of that Province.

Provision should also be made authorizing the Centre to take legislative or executive action at the request of more than one Province with regard to matters that are in the Provincial List.

Notwithstanding anything in this list of recommendations the Head of the State may, with the consent of the Government of a Province or the Ruler of a Federated State, entrust either conditionally or unconditionally to that Government or Ruler, or to their respective officers, functions in relation to any matter to which the executive authority of the Federation extends.

An Act of the Central Legislature may, notwithstanding that it relates to a matter with respect to which a Provincial Legislature has no power to make laws, confer powers and impose duties or authorize the conferring of powers and the imposition of duties upon a Province or officers and authorities thereof.

An Act of the Central Legislature which extends to a Federated State may confer powers and impose duties or authorize the conferring of powers and the imposition of duties upon the State or officers and authorities thereof to be designated for the purpose by the Ruler.

Where by virtue of this provision, powers and duties have been conferred or imposed upon a Province or Federated State or officers or authorities thereof there shall be paid by the Federation to the Province or the State such sum as may be agreed, or, in default of agreement, such sum as may be determined by an arbitrator appointed by the Chief Justice of Pakistan in respect of any extra costs of administration incurred by the Province or the State in connection with the exercise of those powers and duties.

96. Legislation in respect of any matter in the Provincial List in case of Proclamation of Emergency.

Provision should be made authorizing the Centre to legislate in respect of any matter in the Provincial List in case of Proclamation of Emergency.

97. Machinery for the Adjustment of Boundaries.

Provision should be made for the setting up of a machinery for the adjustment of the boundaries of various Provinces.

Explanation—Adjustment of boundaries does not mean the abolition of any of the existing Provinces.

98. Obligation of Provinces and Federation and Control of Federation over Provinces in certain cases.

(1) The executive power of every Province should be so exercised as to ensure compliance with the laws made by the Central Legislature and any existing laws which apply to that Province and the executive power of the Federation should extend to the giving of such directions to a Province as may appear to the Government of Pakistan to be necessary for that purpose.

(2) The executive power of every Province should be so exercised as not to impede or prejudice the exercise of the executive power of the Federation

and the executive power of the Federation should extend to the giving of such directions to a Province as may appear to the Government of Pakistan to be necessary for that purpose.

(3) The executive power of the Federation should also extend to the giving of directions to a Province as to the construction and maintenance of means of communications declared in the directions to be of national or military importance :

Provided that nothing in this sub-para. should be taken as restricting the power of the Central Legislature to declare highways or waterways to be national highways or national waterways or the power of the Federation with respect to the highways or waterways so declared or the powers of the Federation to construct and maintain means of communication as part of its functions with respect to naval, military and air force works.

(4) The executive power of the Federation shall extend to the giving of directions to a Province as to the measures to be taken for the protection of railways within the Province.

(5) Where, in carrying out any direction given to a Province under sub-para (3) as to the construction or maintenance of any means of communication or under sub-para (4) as to the measures to be taken for the protection of any railway, costs have been incurred in excess of those which would have been incurred in the discharge of the normal duties of the Province if such direction had not been given, there should be paid by the Government of Pakistan to the Province such sum as may be agreed, or in default of agreement, such sum as may be determined by an arbitrator appointed by the Chief Justice of Pakistan in respect of the extra costs so incurred by the Province.

99. Disputes regarding interpretation of Constitution.

A dispute with regard to the interpretation of the Constitution between the Provinces *inter se*, or between the Centre and one or more of the Provinces, should always be referred to the Federal Court for decision.

100. Disputes in General.

All other disputes between the Centre and the Provinces or the Provinces *inter se* should be settled by a Tribunal to be set up by the Chief Justice of Pakistan at the request of any party. The report of the Tribunal should be submitted to the Chief Justice of Pakistan to see that the purpose for which the Tribunal was set up has been carried out. The report should then be sent to the Head of the State for implementation.

101. Inter-Provincial Councils.

The Head of the State should have the authority to set up one or more Councils for dealing with matters of common interest between more than one Province or the Provinces and the Centre with the consent of the parties concerned.

102. Borrowing by Government of Pakistan.

The Centre should be competent to borrow money on its own credit for a Province if it likes.

103. Borrowing by Provinces.

So far as borrowing by a Province on its own credit through the agency of the Centre is concerned, no provision is necessary.

P A R T VI

SERVICES UNDER THE FEDERATION AND PROVINCES

104. Protection of Services.

Protection against suits, etc. should be provided to the public servants on the following lines.

No Bill or amendment to abolish or restrict the protection afforded to certain servants of the State in Pakistan by section 197 of the Code of Criminal Procedure, 1898, or by sections 80—82 of the Code of Civil Procedure, 1908, should be introduced or moved in the Central Legislature without the previous sanction of the Head of the State or in a Provincial Legislature without the previous sanction of the Head of the Province.

Where a civil suit is instituted against a public officer, within the meaning of that expression as used in the Code of Civil Procedure, 1908, in respect of any act purporting to be done by him in his official capacity, the whole or any part of the costs incurred by him and of any damages or costs ordered to be paid by him should, if the Head of the State so directs in the case of a person employed in connection with the affairs of the Federation, or if the Head of the Province so directs in the case of a person employed in connection with the affairs of a Province, be defrayed out of and charged on the revenues of the Federation or of the Province as the case may be.

105. Public Service Commissions for the Federation and for the Provinces.

There should be a Public Service Commission at the Centre and a Public Service Commission in each of the Provinces provided that it may be permissible to set up a Joint Public Service Commission for two or more Provinces.

106. Appointment of Chairmen and Members of Public Service Commissions.

The appointment of the Chairman and the Members of the Public Service

Commission at the Centre as well as in the Provinces should be made in accordance with the procedure which may be laid down for the appointment of the Judges of the High Courts.

P A R T VII

EXCLUDED AND PARTIALLY EXCLUDED AREAS

107. Excluded and Partially Excluded Areas.

The expressions 'excluded area' and 'partially excluded area' mean respectively such areas as were excluded or partially excluded areas immediately before the establishment of the Federation, or such areas as may henceforth be declared by the Head of the State to be excluded or partially excluded areas.

- (1) The executive authority of a Province extends to excluded and partially excluded areas therein, but notwithstanding anything in the Constitution, no Act of the Central Legislature or of the Provincial Legislature should apply to an excluded area or a partially excluded area, unless the Head of the Province by public notification so directs, and the Head of the Province in giving such a direction with respect to any Act may direct that the Act should in its application to the area, or to any specified part thereof, have effect subject to such exceptions or modifications as he thinks fit.
- (2) The Head of the Province may make regulations for the peace and good government of any area in a Province which is for the time being an excluded area, or a partially excluded area, and any regulation so made may repeal or amend any Act of the Central Legislature or of the Provincial Legislature or any existing law, which is for the time being applicable to the area in question. Regulations made under this sub-para shall be submitted forthwith to the Head of the State, and until assented to by him, should have no effect.

P A R T VIII

EMERGENCY PROVISIONS

108. Proclamation of Emergency.

In case the State is threatened on account of external aggression or internal disturbances an emergency may be declared.

109. Power of the Head of the State to suspend Constitution in case of emergency or threat to the security of the State.

In case of emergency or of threat to the security of the State or failure of the Constitution, the Head of the State should have power to suspend the whole or part of the Constitution, if he thinks necessary.

110. Power of the Head of the State to suspend Constitution or part of Constitution in case of failure of constitutional machinery in a Province.

In case of a failure of the Constitution in a Province the Head of the State should have the power to suspend such part of the Constitution as may be necessary for the purpose of carrying on the administration, but such power should not extend to the suspension of the Federal Court or the High Court itself or the powers that are vested in the Federal Court and the High Courts by the Constitution.

111. Power of the Head of the State to take necessary steps in case of threat to the economic life of the country.

The Head of the State should have power in all emergencies to take necessary steps in case the stability or the economic life of the country or any part thereof is threatened.

112. Power of Supervision, Direction and Control in case of threat to Financial Stability.

Authority should vest in the Head of the State to exercise the powers of supervision, direction and control with regard to matters that may be essential for the financial stability or the credit of the State or any part thereof.

113. Exercise of certain Powers by the Centre.

The Centre should possess power to legislate in respect of any matter in the Provincial List in case of proclamation of an emergency.

Provision should be made to empower the Centre to issue directions to the Provinces with regard to certain important matters when an emergency arises.

The Head of the State should have the power to legislate subject to the ultimate control of the Central Legislature.

In case it is not possible for the Legislature to sanction the Budget in time, a provision should be made authorising the Head of the State to certify the expenditure.

114. Laying of Proclamation of Emergency before the Central Legislature.

Provision should be made making it compulsory on the part of the Head of the State to lay the Proclamation of Emergency issued by him before the Central Legislature in case the Legislature is in existence and can meet.

PART IX
MISCELLANEOUS

115. Titles and Decorations.

No titles should be granted by the State of Pakistan; no citizen of Pakistan should accept any title of any kind whatsoever from any King, Prince or Foreign

State. This should not, however, bar the award by the Head of the State of decorations in recognition of service in its Defence services, Police and other similar organizations, or decorations for valour.

116. Treaty-Making Powers.

All the treaties should be signed and ratified by the Head of the State.

All treaties, except of those categories which might specifically be excluded from the operation of this clause, should be subject to ratification by the Central Legislature. The treaties excluded may be ratified by the Government. The Committee is of the view that certain treaties may be of such an important nature that they should go for ratification to each House of the Central Legislature sitting separately. In the case of a difference, the matter may be considered in a joint session of both the Houses.

As a large number of treaties relating to day-to-day administration have to be excluded, the matter should be investigated by an Expert Sub-Committee or officer and a list of such categories of treaties should be prepared as soon as possible, and they should be included in a schedule to be attached to the Constitution Act.

117. Power to receive Diplomats.

The Head of the State should have power to receive diplomats.

118. Power to declare War.

The power to declare war should vest in the Head of the State.

119. Jurisdiction of the Federation in relation to Territories outside Pakistan.

Suitable provision should be included in the Constitution for legislative, executive and judicial jurisdiction of an extra-territorial nature.

120. Language of the State.

Urdu should be the national language of the State.

121. Nomenclature.

Nomenclature should be in the national language with English translation in the English version of the Constitution.

The Committee has appointed a special Committee consisting of Dr. Maulvi Abdul Haq, Dr. I. H. Qureshi and Dr. Mahmud Husain to suggest appropriate nomenclature.

122. Oaths.

Wherever under the Constitution oath is required to be taken, the Muslims should take it in the name of God and in the case of non-Muslims it should be open to them either to take oath in the name of God or make an affirmation.

123. Interpretation of the Constitution.

The interpretation of the Constitution should be left to the Judiciary. But, while framing the details, care should be taken that the final interpretation by the highest Court in Pakistan is not unnecessarily delayed.

P A R T X

AMENDMENT OF THE CONSTITUTION

124. Procedure for Amendment of the Constitution.

The Committee is of the view that the process of amending the Constitution should be made difficult. It is accordingly decided that the following procedure should be recommended.

If a notice is received signed by not less than one-third of the Members of a House seeking permission for the circulation of their motion for amendment of the Constitution amongst the Provinces for opinion, it should be placed on the agenda of the House concerned and considered. In case it is passed by a majority, the matter should be referred to the other House for consideration for the same purpose. When permission is granted by the second House, the proposal should be circulated to the Provinces by the Chairman of the House in which it is initiated. The Chairman of the Legislature of every Province, by whom the proposal is received for consideration, should convey the decision of the respective Legislature to the Chairman who circulated the proposal. The decision in the Central as well as the Provincial Legislature should be taken by majority of votes. If a majority of the Provinces support the consideration of the motion, it should be placed on the agenda of the originating House for consideration. In case it is passed by the House with two-thirds majority of the Members present and voting, it should be referred to the other House for similar action. If the latter House also passes the proposal by a like majority, the amendment should be deemed to have been passed.

P A R T XI

TRANSITIONAL PROVISIONS

125. Provision during the Transitional period.

(a) Special provision should be made to enable the administration of the country to be run, as far as possible, in accordance with the present Constitution from the time of passage of the new Constitution till its implementation.

(b) Provision should be made to enable the existing administration to take all suitable steps towards the enforcement of the new Constitution.

ANNEXURE III

LIST I (Federal)

1. All matters necessary for ensuring the defence of the State in peace and war.

2. The raising, training, maintenance and control of naval, military and air forces and their employment for the defence of Pakistan and enforcement of the laws of Pakistan and its Provinces and any other force which may be needed for the protection of, and service on, the border.

3. Preventive detention in the territory of Pakistan for reasons connected with defence, external affairs or the security of Pakistan.

Persons subjected to preventive detention under the authority of the Federation.

4. Defence industries and atomic energy.

5. All work connected with services set up under Nos. 1 and 2 and Local Self-Government in Cantonment areas, powers and functions within such areas of Cantonment authorities, control of house accommodation in such areas, and the delimitation of such areas.

6. Foreign affairs, all matters which bring Pakistan into relation with any foreign country.

7. Diplomatic, consular and trade representation.

8. International organizations, participation in International conferences, associations and other bodies and implementing of decisions made thereat.

9. War and peace and making of treaties and implementation thereof.

10. Foreign and extra-territorial jurisdiction.

11. Trade and commerce with foreign countries.

12. Foreign loans.

13. Citizenship, naturalization and aliens.

14. Extradition.

15. Passport and visas.

16. Piracies and offences against the law of Pakistan and offences against the law of nations committed on the high seas and in the air.

17. Admission into, and emigration and expulsion from, the territory of Pakistan.

18. Pilgrimages to places beyond Pakistan.

19. Pilgrimages by foreigners to places inside Pakistan.

20. Inter-Provincial and port quarantine, seamen's and marine hospitals and hospitals connected with port quarantine.

21. Import and export across customs frontiers as defined by the Government of Pakistan.

22. Communications which shall include the control of railways, airways, shipping, navigation on sea and air, national highways declared to be such by Central Legislature by law, national ports declared to be such by or under the law made by Central Legislature, posts and telegraphs, telephones, wireless, broadcasting and television.

Maritime shipping and navigation, including shipping and navigation on tidal waters; provision of education and training for the mercantile marine and civil aviation and regulation of such education and training provided by the Provinces and other agencies.

22A. Airways, aircraft and air navigation; provision for aerodromes; regulation and organization of air traffic and of aerodromes; provision for aeronautical education and training and regulation of such education and training provided by Provinces and other agencies.

Shipping and navigation on inland waterways, declared by Central Legislature by law to be national waterways, as regards mechanically-propelled vessels, and the rule of the road on such waterways; carriage of passengers and goods on such waterways.

23. Ancient and historical monuments declared by law to be of national importance, archaeological sites and remains, libraries and museums not financed by the Provinces.

24. Federal agencies and institutes for research, for professional or technical training or for the promotion of special studies.

25. Federal surveys and Federal meteorological organizations.

26. State Bank of Pakistan, banking, currency, foreign exchange, coinage, legal tender, cheques, bills of exchange, promissory notes, and other like instruments.

27. Insurance.

28. Company Laws.

29. Copy rights, designs, patents, inventions, trade and merchandise marks.

30. Development of industries, when development under Federal control is declared by Federal law to be expedient in the public interest.

31. Iron, steel, coal, petroleum and mineral and any other such commodities, the control of which is declared by Federal law to be of national interest.

Regulation of mines and oilfields and mineral development to the extent to which such regulation and development under Federal control is declared by Federal law to be expedient in the public interest.

32. Industrial disputes concerning the regulation of labour and safety in mines and oilfields.

33. Regulation of Inter-provincial trade and commerce.

34. Standards of weight and measure.
35. Opium so far as regards cultivation and manufacture or sale for export.
36. Constitution, organization, jurisdiction and powers of the Federal Court and fees.
37. Census.
38. Inquiries and statistics for the purpose of any matters in this List.
39. Central Intelligence Bureau.
40. Federal Public Service and Federal Public Service Commission.
41. Election to Central Legislature and of the President and all other Federal elections.
42. Fishing and fisheries beyond territorial waters.
43. Salt.
44. Provision for dealing with emergencies in any part of the territory.
45. Offences against laws with respect to any of the matters in this list.
46. Corporation, that is to say, the incorporation, regulation and winding up of trading corporations, including banking, insurance and financial corporations other than Universities, co-operative societies and municipal corporations.
47. Inter-Provincial migration within Pakistan.
48. Acquisition and requisitioning of land or property for the purposes of the Federation.
49. Property of the Federation and the revenue therefrom, but as regards property situated in a Province subject always to legislation by the Province, save in so far as Central Legislature by law otherwise provides.
50. Public debt of the Federation; borrowing of money on the Federal credit.
51. Zakat.
52. Decorations and titles of honour.
53. Intoxicating liquors and narcotic drugs.
54. Sanction of cinematograph films for exhibition.
55. Arms, firearms, ammunitions and explosives.
56. Post Office Savings Bank.
57. Admiralty jurisdiction.
58. Lighthouses, including lightships, beacons, and other provision for the safety of shipping and aircraft.
59. Petroleum and other liquids and substances declared by Federal law to be dangerously inflammable, so far as regards possession, storage and transport.
60. The salaries of the Central Ministers and Deputy Ministers, and of the Chairman and Deputy Chairman of the Central Legislature, the salaries, allowances, and privileges of the Members of the Central Legislature and the punishment of persons who refuse to give evidence or produce documents before Committees of the Legislature.

61. The enforcement of attendance of persons for giving evidence or producing documents before Committees of Central Legislature.

62. The development of waterways for purposes of flood control, irrigation, navigation and hydro-electric power when such development is required for the benefit of more than one Province.

63. Stock exchanges and futures market.

64. Extension of the jurisdiction of a High Court having its principal seat in any Province to an area outside that Province and exclusion of the jurisdiction of any such High Court from any area outside that Province.

65. Jurisdiction and powers of all Courts, other than the Supreme Court, with respect to any of the matters in this list.

66. Extension of the powers and jurisdiction of members of a police force belonging to any Province, to any other area in Pakistan, but not so as to enable the police of one Province to exercise powers and jurisdiction elsewhere without the consent of the Government of the area concerned.

67. All other matters not enumerated in Lists II and III.

LIST II (Provincial)

1. Public order (but not including the use of armed forces in aid of civil power), administration of justice, constitution and organization of all courts except Federal Court, and fees taken in preventive detention for reasons connected with maintenance of public order.

2. Prisons, reformatories, Borstal institutions and other institutions of a like nature and persons detained therein, arrangements with other Provinces for the use of prisons and other institutions.

Police.

3. Jurisdiction and powers of all courts except the Federal Court with respect to any of the matters in this List, procedure in rent and revenue courts.

4. Public debt of the Province.

5. Provincial pensions, *i.e.*, payable by a Province.

6. Provincial Service and Provincial Public Service Commission.

7. Works, lands and buildings vested in or in the possession of a Province.

8. Acquisition and requisitioning of land or property for the purposes of Provinces or when so required for the Federation.

9. Universities, libraries, museums and other similar institutions controlled or financed by the Provinces.

10. Public health, sanitation, hospitals, registration of births and deaths.

11. Burials and burial grounds.

12. Election to Provincial Legislatures, salaries and allowances of Ministers, Chairmen, etc., the punishment of persons who refuse to give evidence or produce documents before Committees of Legislatures.

13. Local Government, *i.e.*, municipalities, improvement trusts, district boards, mining settlement authorities and other local authorities for the purpose of local self-government.

14. Pilgrimages within the Province.

15. Education.

16. Communications, that is to say, roads, bridges, ferries and other means of communication not covered by List I, municipal tramways; ropeways; inland waterways and traffic thereon subject to the provisions of List III with regard to such waterways, ports subject to the provisions in List I with regard to national ports; vehicles other than mechanically-propelled vehicles.

17. Water supplies, irrigation and canals, drainage and embankment, water storage.

17A. Water power.

18. Agriculture, including agricultural education and research, protection against pests and prevention of plant diseases; improvement of stock and prevention of animal diseases; veterinary training and practice; pounds and the prevention of cattle trespass.

19. Land, rights in or over land, land tenures, relations of landlords and tenants, collection of rent ; transfer, alienation and devolution of agricultural land, land improvement and agricultural loans ; colonization ; courts of wards ; encumbered and attached estates ; treasure trove ; jagirs and inams chargeable to Provincial revenues.

20. Forests, protection of wild birds and animals.

21. Gas and gasworks.

22. Regulation of mines and oilfields and mineral development subject to the provisions of List I.

23. Fisheries.

24. Control of inns and innkeepers, shops and salons.

25. Trade and commerce in the Province, fairs and markets.

25A. Money-lending and money-lenders.

26. Production, supply and distribution of goods, development of industries subject to List I.

27. Adulteration of foodstuffs and other goods.

28. Intoxicating liquors and narcotic drugs subject to List I.

29. Poor relief, unemployment, charities, charitable institutions, charitable and religious endowments.

30. The incorporation, regulation and winding up of corporations specified in List I or Universities ; unincorporated trading, literary, scientific, religious and other societies and associations excepting those of Muslims ; co-operative societies.

31. Betting and gambling.

32. Theatres, dramatic performances and cinemas excluding sanction of cinematograph films for exhibition.

33. Inquiries and statistics for the purpose of any of the matters in this List.

34. Offences against laws with respect to any of the matters in this List.

35. Wakfs and mosques.

LIST III (Concurrent)

1. Criminal law, including all matters included in the Indian Penal Code at the date of the passing of this Act, but excluding offences against laws with respect to any of the matters specified in List I or List II and excluding the use of naval, military and air forces in aid of the civil power.
2. Criminal procedure, including all matters included in the Code of Criminal Procedure at the date of the passing of this Act.
3. Removal of prisoners and accused persons from one Province to another.
4. Civil procedure, including the law of limitation and all matters included in the Code of Civil Procedure at the date of the passing of this Act ; the recovery in a Province of claims in respect of taxes and other public demands, including arrears of land revenue and sums recoverable as such arising outside that Province.
5. Evidence and oath ; recognition of laws, public acts and records and judicial proceedings.
6. Marriage and divorce ; infants and minors ; adoption.
7. Wills, intestacy, and succession, save as regards agricultural lands.
8. Transfer of property other than agricultural land ; registration of deeds and documents.
9. Trusts and trustees.
10. Contracts, including partnership, agency, contracts of carriage and other special forms of contract but not including contract relating to agricultural land.
11. Arbitration.
12. Bankruptcy and insolvency ; administrators-general and official trustees.
13. Stamp duties other than duties or fees collected by means of judicial stamps, but not including rates of stamp duty.
14. Actionable wrongs, save in so far as included in laws with respect to any of the matters specified in List I or List II.
15. Jurisdiction and powers of all courts except the Federal Court with respect to any of the matters in this List.
16. Legal, medical and other professions.
17. Newspapers, books and printing presses.
18. Lunacy and mental deficiency, including places for the reception or treatment of lunatics and mental deficient.
19. Poisons and dangerous drugs.
20. Mechanically-propelled vehicles.
21. Boilers.
22. Prevention of cruelty to animals.

23. Vagrancy, nomadic, criminal and migratory tribes.
24. Factories.
25. Welfare of labour ; conditions of labour ; provident funds ; employer's liability and workmen's compensation ; health insurance, including invalidity pensions ; old age pensions.
26. Unemployment and social insurance.
27. Trade unions ; industrial and labour disputes.
28. The prevention of the extension from one Province to another of infections or contagious diseases or pests affecting men, animals or plants.
29. Electricity.
30. Shipping and navigation on inland waterways as regards mechanically-propelled vessels, and the rule of the road on such waterways, carriage of passengers and goods on inland waterways.
31. The principles on which compensation is to be determined for property acquired or requisitioned for the purposes of the Federation or a Province.
32. Inquiries and statistics for the purpose of any of the matters in this List.
33. Fees in respect of any of the matters in this List.
34. Interest.
35. Higher technical education.
36. Scientific and industrial research.
37. Muslim religious societies excluding mosques and wakfs.

APPENDIX II

To

The Constituent Assembly of Pakistan.

On behalf of the Members of the Committee on Fundamental Rights of Citizens of Pakistan and on Matters Relating to Minorities, I have the honour to submit this Interim Report on Fundamental Rights.

The Committee was appointed by the Constituent Assembly of Pakistan by a Resolution on 12th August, 1947. A copy of the Resolution which constituted the Committee is given in *Annexure 'B'. The President in exercise of the power conferred by that Resolution subsequently nominated the following persons as members of the Committee :

- (1) Mr. C. E. Gibbon.
- (2) Dewan Bahadur S. P. Singha.
- (3) The Hon'ble Sir Mohd. Zafrullah Khan.
- (4) Mr. Jamshed Nusserwanji Mehta.
- (5) The Hon'ble Chaudhri Nazir Ahmad Khan.
- (6) The Hon'ble Khwaja Shahabuddin.
- (7) Mr. Phoni Bhusan Barua.

Later on Khan Sardar Bahadur Khan and Qazi Mohammad Isa were appointed by the President under Rule 70 *vice* Mr. Ghazanfar Ali Khan and Mr. Bhim Sen Sachar, who resigned their seats in the Assembly and therefore ceased to be members of the Committee under Rule 71A(2) C. A. P. Rules. In November 1949, Mr. Rallia Ram was appointed by the President in the vacancy caused by the death of Dewan Bahadur S. P. Singha.

The Committee held its first meeting on 26th May, 1948, and after electing the Hon'ble Mr. Liaquat Ali Khan as its Vice-Chairman, decided to appoint two separate Sub-Committees to deal with matters relating to—

- (1) Fundamental Rights of Citizens of Pakistan ; and
- (2) Matters Relating to Minorities.

The Sub-Committee on Fundamental Rights submitted a report on 26th June, 1948, which was presented to the Committee at its meeting held on 3rd June, 1949. The Committee decided that the consideration of the report be postponed till such time as the Report of the Sub-Committee on Matters Relating to Minorities was ready for consideration by the Committee and that in the meantime the Sub-Committee on Fundamental Rights might re-examine its report in the light of declaration on Human Rights as drafted by the United Nations Organization.

The Sub-Committee on Fundamental Rights submitted its further report on 17th June, 1949, which was presented to the Committee at its meeting held on 13th April, 1950. The Committee after preliminary discussion decided to postpone the consideration of the Report till the Report of the Minorities Sub-Committee was submitted. The Committee again met on 8th and 9th September, 1950, and, as the report on Minorities had not till then been presented, decided to take up the consideration of the report of the Sub-Committee on Fundamental Rights.

The Committee has carefully gone into the recommendations made by that Sub-Committee and has made such alterations in it as it thought necessary. The recommendations of the Committee are set out in *Annexure 'A' and are in three parts, namely :

Part I dealing with citizenship ;

Part II stating the Fundamental Rights ; and

Part III giving the Directive Principles of State Policy.

The Committee has authorized me to sign the report on its behalf and has further authorized the Vice-Chairman to present the Report to the Assembly and pilot the same.

TAMIZUDDIN KHAN,
Chairman.

Note of Dissent

Re Article 1 (2).—“No person shall be deprived of life and liberty, save in accordance with law”—is good so far as it goes. But every country has and makes law for preventive arrest and detention of citizens under certain circumstances. This law is unfortunately sometimes abused in these days of party governments and often by unscrupulous officers. The chances of such an abuse should be minimized by the insertion of provisos like the following : (a) when any person is detained in pursuance of an order made under any law providing for preventive detention, the authority making the order shall, as soon as may be, communicate to such person the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order ; (b) no law providing for preventive detention shall authorise the detention of a person for a longer period than three months unless an Advisory Board consisting of persons who are, or have been, or are qualified to be appointed as, Judges of a High Court has reported before the expiration of the said period of three months that there is in its opinion sufficient cause for such detention.

Re Article 3.—The right of a citizen to move the High Court for a writ of *habeas corpus* is a valued one and should not be lightly interfered with. The phraseology in Article 3 is too vague. The words “or other grave emergency” may give loophole to the executive or the majority party in a Legislature to trifle with the life and liberty of citizens and should therefore be dropped. The following from the Constitution of the U.S.A. may be compared in this connection : “The right of a citizen to move the High Court for a writ of *habeas corpus* shall not be suspended unless when in cases of rebellion or invasion the public safety may require it.”

PROF. RAJ KUMAR CHAKRAVERTY,

Member, Constituent Assembly.

Dated, the 12th September, 1950.

ANNEXURE A

FUNDAMENTAL RIGHTS OF CITIZENS OF PAKISTAN

PART I

CITIZENSHIP

Citizenship
as the date
of commen-
cement of
the Consti-
tution.

1. At the date on which this Constitution comes into force every person shall be deemed to be a citizen of Pakistan,

- (a) who or either of whose parents or grand-parents was born in the territory comprising Pakistan and who after the fourteenth day of August, 1947, has not been permanently resident in any foreign State ; or
- (b) who or either of whose parents or grand-parents was born in the territories which on the 31st March, 1937, comprised India and who has his domicile in Pakistan as described in Part II of the Indian Succession Act, 1925, had the provisions of that Part been applicable to him :

Provided that in case of his having, before the date of the commencement of this Constitution, acquired the citizenship of any foreign State, he has renounced such citizenship by depositing a declaration in writing to this effect with an authority appointed for that purpose.

Legislature
to regulate
the Right of
Citizenship.

2. The Legislature of Pakistan may make further provision in respect of acquisition and loss of citizenship and all other matters pertaining thereto.

PART II

FUNDAMENTAL RIGHTS

Protection
of life and
personal
liberty and
equality
before Law.

1. (1) (a) All citizens are equal before law ; and

(b) All persons are entitled to the equal protection of law.

(2) No person shall be deprived of life or liberty, save in accordance with law.

Protection
in respect of
conviction
of offence.

2. No person shall be punished in respect of an act the doing of which was not punishable at the time when it was done.

Right to
move High
Court for
writ of
habeas corpus

3. The right of a citizen to move the High Court for a writ of *habeas corpus* shall not be suspended, except in case of an external or internal threat to the security of the State or other grave emergency.

Prohibition
of discrimi-
nation on
grounds of
religion,
race, caste
or sex.

4. There shall be no discrimination on grounds only of religion, race, caste, sex or place of birth with regard to access to places of public entertainment, recreation, welfare or utility :

Provided that nothing in this Article shall derogate from the powers of the State to make special provision for the benefit of women and children :

Provided further that the provisions of this Article shall not apply to places of religious worship, shrines or other similar sacred premises.

5. (1) No one shall be held in slavery or servitude.

Prohibition
of slavery
and forced
labour.

(2) All forms of forced labour are declared unlawful :

Provided that the State shall not be prevented from imposing compulsory service for public purposes.

(3) No one shall be subjected to torture or to cruel or inhuman treatment or punishment.

6. The employment of children under fourteen years of age in a factory or a mine, or in occupations involving danger to life or injury to health, is prohibited.

Prohibition
of employ-
ment of
children in
factories,
etc.

7. Every duly qualified citizen shall be eligible to appointment in the service of the State irrespective of religion, race, caste, sex, descent or place of birth :

Equality of
opportunity
in matters
of public
employment

Provided that it shall not be unlawful to make provision for the reservation of posts in favour of any minority or backward section of citizens in order to give them adequate representation :

Provided further that it shall be lawful to prescribe that only a person belonging to a particular religion or denomination shall be eligible to hold office in connection with any religious or denominational institution or governing body thereof.

8. (1) No person shall be deprived of his property except in accordance with law.

Compulsory
acquisition
of property.

(2) No property shall be requisitioned or acquired for public purposes under any law authorising such requisition or acquisition unless the law provides for adequate compensation.

Nothing in this clause shall affect the provisions of any existing law or the provisions of any law which may hereafter be made for the purpose of imposing or levying any tax or for the promotion of public health or for the prevention of danger to life or property.

9. (1) Every citizen of Pakistan is guaranteed :

(a) freedom of speech, expression, association, profession, occupation, trade or business, acquisition and disposal of property and peaceful assembly without arms ;

Protection
of certain
rights
regarding
freedom of
speech, etc.

(b) the right to move freely throughout Pakistan and to reside or settle in any part thereof ;

(c) the right to equal pay for equal work.

(2) Nothing in this Article shall affect the operation of any existing law or prevent the State from making any law relating to libel, slander, defamation, sedition or any other matter which offends against decency or morality or undermines the authority or foundation of the State ; or from restricting or regulating, in the public interest or in the interest of public order, morality or health, any freedom or right guaranteed by this Article.

10. Freedom of conscience and the right to profess, practise and propagate religion are guaranteed subject to public order and morality :

Freedom of
conscience
and free
profession,
practice and
propagation
of religion.

Provided that this Article shall not affect the operation of any existing law or prohibit the making of any law regulating or restricting any activity of a secular nature.

Freedom to manage religious affairs, and acquisition of property for religious and charitable purposes.

Right to procure articles for religious purposes.

Religious instruction in educational institutions.

Freedom as to payment of taxes for propagation of any particular religion.

Savings.

11. Subject to public order and morality, every religious denomination or any section thereof shall enjoy freedom in the management of its religious affairs including the establishment and maintenance of religious and charitable institutions and the acquisition of movable and immovable property for that purpose.

12. Subject to regulations to be made in this behalf every religious denomination or any section thereof shall have the right to procure exclusively for religious purposes all articles which are proved as being essential for worship in accordance with the rules, rites, ceremonies and customs of that denomination.

13. (1) No person attending any educational institution shall be required to take part in any religious instruction or to attend any religious worship other than that of his own community or denomination.

(2) No community or denomination shall be prevented from providing religious instruction for pupils of that community or denomination in any educational institution maintained by that community or denomination.

(3) No educational institution maintained wholly out of funds provided by a particular community or denomination shall be refused recognition by the State solely on the ground that it refuses admission to persons of a different community or denomination.

14. No person shall be compelled to pay any special taxes, the proceeds of which are specifically appropriated in payment of expenses for the propagation or maintenance of any particular religion other than his own.

15. (1) Save with regard to matters governed by the personal law of a community, or otherwise expressly provided in this Constitution, any law in force in any part of Pakistan at the time of commencement of this Constitution shall be void in so far as it is repugnant to any provisions of this Part, and any law made hereafter which contravenes any of the provisions of this Part shall, to the extent of such contravention, be void.

(2) The term 'law' in this Article includes an ordinance, regulation, custom or usage having the force of law, bye-law, rule, order or notification.

PART III

DIRECTIVE PRINCIPLES OF STATE POLICY

Untouchability declared unlawful.

1. The notion of untouchability being inconsistent with human dignity, its practice is declared unlawful.

ANNEXURE B

RESOLUTION

“That this Assembly resolves that a Committee consisting of the President and the following members, namely :

The Hon'ble Sardar Abdur Rab Khan Nishtar,

Dr. Mahmud Husain,

Mr. Bhim Sen Sachar,

The Hon'ble Mr. M. A. Khuhro,

Sheikh Karamat Ali,

Prof. Raj Kumar Chakraverty,

The Hon'ble Mr. Ghazanfar Ali Khan,

Mr. Prem Hari Barma,

The Hon'ble Mr. Fazlur Rahman,

Begum Shah Nawaz,

Mr. Birat Chandra Mandal,

Dr. Ishtiaq Husain Qureshi,

Mr. Abul Kasem Khan,

The Hon'ble Mr. Jogendra Nath Mandal, and

the Mover (The Hon'ble Mr. Liaquat Ali Khan),

be appointed to advise this Assembly on Fundamental Rights of Citizens of Pakistan and on matters relating to the Minorities with power to the President to nominate not more than seven other members who need not be Members of the Constituent Assembly.”